

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRADLEY GREGG,

Defendant.

No. 05-CR-4079-DEO

ORDER

I. INTRODUCTION AND BACKGROUND

This matter is before the Court pursuant to "Report and Recommendation On Petition To Revoke Supervised Release" (Docket No. 110, 02-04-2009) issued by Chief United States Magistrate Judge Paul A. Zoss. The report and recommendation sets out an introduction and states the findings of fact relevant to this case. While these portions will not be repeated, each is referenced and incorporated as if fully set out herein.

The report and recommendation sets out an analysis portion on page 9, which states in part:

G. Recommendation

Upon consideration of all of the above factors, the undersigned recommends Gregg's term of supervised release be revoked; that he be sentenced to a term of six months' imprisonment; and that he be sentenced to

a one-year term of supervised release with special conditions as described below. The undersigned finds a six-month term of imprisonment will impress upon Gregg the seriousness of continued noncompliance with the conditions of his supervised release. In addition, the undersigned finds a one-year period of supervised release is sufficient time for Gregg to reintegrate himself into the community following his release from incarceration. As a special condition of Gregg's supervised release, the undersigned recommends he be required to complete a substance abuse evaluation within sixty days of his release from incarceration, and that he be required to complete any treatment recommended as a result of the evaluation.

II. ANALYSIS

A. Standard of Review

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner

petitions, where objections are made as follows:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b).

III. CONCLUSION

Chief United States Magistrate Judge Paul A. Zoss concluded the report and recommendation as follows:

IV. CONCLUSION

Based upon the foregoing analysis, IT IS RESPECTFULLY RECOMMENDED, unless any party files objections to this Report and Recommendation, that the Government's motion to revoke Gregg's supervised release be granted, consistent with the above opinion. (Footnote omitted).

Further, the report and recommendation set forth February 13, 2009, as the deadline for filing objections to the report and recommendation.

On February 5, 2009, counsel for defendant Gregg, Robert Wichser, filed "Defendant's Statement Of Non-Objection To

Report And Recommendation" (Docket No. 111), which states in part:

COMES NOW, the defendant, Bradley Gregg, by and through his undersigned counsel, and states that he has no objections to the Report and Recommendation or Petition to Revoke Supervised Release, entered in this cause by Chief Magistrate Judge Zoss on February 4, 2009. Defendant hereby waives the 10-day period in which to file written objections to same and asks that the Court accept such written Report and Recommendation without further delay.

Defendant respectfully requests the Court recommend placement of the defendant for service of sentence at the Bureau of Prisons facility of FCI Oxford, Wisconsin,¹ or alternatively, FCI Waseca, Minnesota.

The Court recognizes that defendant Gregg has waived any objections, and it appears to the Court upon review of Chief Magistrate Judge Zoss's findings and conclusions that there are no grounds to reject or modify them.

IT IS THEREFORE HEREBY ORDERED that this Court **accepts** Chief Magistrate Judge Zoss's Report and Recommendation (Docket No. 110).

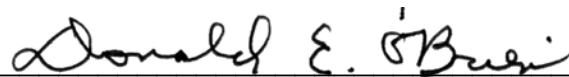
¹The Court has confirmed with the United States Probation Office that FCI Waseca was converted to an all female facility in January, 2009. Therefore, this option for placement of defendant Gregg is not available.

IT IS FURTHER HEREBY ORDERED that the Government's petition to revoke is **granted**.

IT IS FURTHER HEREBY ORDERED that defendant Bradley Gregg is hereby sentenced to a term of six months' imprisonment and is hereby sentenced to a one-year term of supervised release, with the special condition that defendant Gregg is required to complete a substance abuse evaluation within sixty days of his release from incarceration, and that defendant Gregg shall complete any treatment recommended as a result of the evaluation.

The Court recommends placement of the defendant Bradley Gregg at the Bureau of Prisons facility at FCI Oxford, Oxford, Wisconsin.

IT IS SO ORDERED this 6th day of February, 2009.

A handwritten signature in dark ink, reading "Donald E. O'Brien", is written over a horizontal line.

Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa